

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BASRA D. MOHAMED,

Plaintiff,

v.

FULL LIFE CARE et al.,

Defendants.

CASE NO. 2:22-cv-01010-LK

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

This matter comes before the Court on the Application for Court-Appointed Counsel in Title VII Action filed by Plaintiff Basra Mohamed. Dkt. No. 10. Having reviewed the application, the amended complaint, the balance of the record, and the applicable law, the Court denies Ms. Mohamed's application to appoint counsel.

**I. BACKGROUND**

Ms. Mohamed worked for Full Life Care, a non-profit organization that provides care to "frail elders and people with chronic or terminal illnesses and disabilities,"<sup>1</sup> as a Resident Mental

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<sup>1</sup> Full Life Care Mission and Vision, <https://www.fulllifecare.org/about-us/mission-and-vision/> (last visited November 5, 2022).

1 Health & Services Coordinator from January 2020 to October 2021. Dkt. No. 12-1 at 1. She alleges  
2 that Transforming Age, an affiliate of Full Life Care, imposed a vaccine mandate that applied to  
3 her and other employees. Dkt. No. 12 at 4.

4 Ms. Mohamed, who is Muslim, has “religious objections to vaccines,” so she requested—  
5 as a religious accommodation—an exemption from the vaccine requirement. Dkt. No. 12-1 at 3;  
6 Dkt. No. 12 at 6. Her request was denied and the following month, Full Life Care terminated her  
7 employment. Dkt. No. 12 at 4–5.

8 Ms. Mohamed filed suit in July 2022, Dkt. No. 1, and filed an amended complaint in  
9 September 2022, Dkt. No. 12, accusing Full Life Care and Transforming Age of violating Title  
10 VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. §§ 2000e–2000e-17, Washington  
11 Revised Code § 49.60 *et seq.*, and Seattle Municipal Code § 14.04 by failing to accommodate her  
12 religion and retaliating against her. Dkt. No. 12-1 at 1, 3; Dkt. No. 12 at 4.

## 13 II. DISCUSSION

14 “Unlike in criminal cases that implicate the Sixth Amendment right to counsel, civil  
15 litigants who cannot afford counsel are not constitutionally guaranteed the appointment of a  
16 lawyer.” *Adir Int’l, LLC v. Starr Indem. & Liab. Co.*, 994 F.3d 1032, 1039 (9th Cir. 2021). The  
17 Court does, however, have discretion to “request” appointment of counsel for indigent litigants  
18 pursuant to section 1915(e)(1) in “exceptional circumstances.” *Agyeman v. Corrections Corp. of*  
19 *Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004) (quoting 28 U.S.C. § 1915(e)(1) and *Franklin v. Murphy*,  
20 745 F.2d 1221, 1236 (9th Cir. 1984)). The exceptional circumstances inquiry requires the Court to  
21 consider “the likelihood of success on the merits as well as the ability of the petitioner to articulate  
22 his claims pro se in light of the complexity of the legal issues involved.” *Weygandt v. Look*, 718  
23 F.2d 952, 954 (9th Cir. 1986). Neither consideration is dispositive, and the Court must view them  
24 together. *See Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009).

1 Ms. Mohamed has not shown that either factor weighs in her favor. First, her complaint  
2 “evinces little likelihood of success on the merits[.]” *Kryuchkov v. Spain Street LLC*, No. C19-  
3 876-MJP, 2019 WL 2450798, at \*2 (W.D. Wash. June 12, 2019). While Title VII prohibits  
4 employers from discriminating against employees based on their religion, 42 U.S.C. § 2000e-2(a),  
5 courts lack subject matter jurisdiction over such claims unless the plaintiff has first exhausted  
6 administrative remedies “by filing a timely charge with the [U.S. Equal Employment Opportunity  
7 Commission (“EEOC”)], or the appropriate state agency[.]” *B.K.B. v. Maui Police Dep’t*, 276 F.3d  
8 1091, 1099 (9th Cir. 2002). Ms. Mohamed filed charges against Full Life Care, Dkt. Nos. 12-1,  
9 12-2, but she has not shown that she filed a charge against co-defendant Transforming Life. And  
10 her Title VII claim against Full Life Care may be untimely. She was required to file suit within 90  
11 days of receiving the March 9, 2022 notice of her right to sue from the EEOC, Dkt. No. 12-3 at 1,  
12 but she did not file this lawsuit until July 19, 2022. Dkt. No. 1. If her complaint is untimely, it is  
13 subject to dismissal. *See, e.g., Payan v. Aramark Mgmt. Servs. Ltd. P’ship*, 495 F.3d 1119, 1127  
14 (9th Cir. 2007) (affirming dismissal of pro se complaint filed after the 90-day period had expired);  
15 *Bilbrew v. Dejoy*, 851 F. App’x 803, 803 (9th Cir. 2021) (same). And if her federal claim is  
16 dismissed, the Court would likely decline supplemental jurisdiction over her pendent claims for  
17 discrimination under state and city laws.

18 Second, this case does not present unusually complex legal or factual issues that would  
19 preclude Ms. Mohamed from articulating her claims pro se. *See Agyeman*, 390 F.3d at 1103–04.  
20 That she might more articulately set forth the facts underlying her claim with the assistance of  
21 counsel is not the test. *Steiner v. Hammond*, No. C13-5120-RBL, 2013 WL 3777068, at \*2 (W.D.  
22 Wash. July 16, 2013). Nor do her unsuccessful efforts to retain private counsel qualify as an  
23 exceptional circumstance. *Curbow v. Clintsman*, No. C21-1420-TLF, 2021 WL 5051662, at \*1  
24 (W.D. Wash. Nov. 1, 2021); *see* Dkt. No. 10 at 2. And her filings demonstrate an ability to

1 articulate her claims and submit supporting evidence. Dkt. Nos. 6, 10, 11, 12, 12-1, 12-2.  
2 Accordingly, Ms. Mohamed has not shown that she is entitled to the appointment of counsel at  
3 this time.

### 4 III. CONCLUSION

5 For the foregoing reasons, the Court DENIES Ms. Mohamed's application to appoint  
6 counsel. Dkt. No. 10. Unless Ms. Mohamed retains counsel, she will be responsible for pursuing  
7 this case pro se. Materials to assist pro se litigants are available on the United States District Court  
8 for the Western District of Washington's website. Although the court affords some leeway to pro  
9 se litigants, they must comply with case deadlines, the Federal Rules of Civil Procedure, and the  
10 Western District of Washington's Local Rules, which can also be found on the Western District  
11 of Washington's website.

12 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
13 to Ms. Mohamed at her last known address.

14 Dated this 7th day of November, 2022.

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Lauren King  
17 United States District Judge  
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